

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: BAIR HUGGER FORCED AIR
WARMING PRODUCT LIABILITY
LITIGATION

MDL No.: 15-md-02666 (JNE/DTS)

This Document Relates To:

TINA RAY,

Civil Action No.: 17-cv-04214

Plaintiff,

**DECLARATION OF SAMANTHA RODRIGUEZ IN SUPPORT OF
PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

I, Samantha Rodriguez, declare as follows:

1. I am an attorney at Kennedy Hodges, LLP and Counsel for Plaintiff Tina Ray in the above-captioned matter.
2. I submit this declaration in opposition to Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 23 [Dkt. 1740] filed on February 7, 2019.
3. Ms. Ray contacted Kennedy Hodges, LLP in September of 2015 regarding injuries that were allegedly caused by the Bair Hugger patient warming device.
4. Medical records and billing records pertaining to Ms. Ray's treatment were obtained by Kennedy Hodges through its third-party medical records retrieval company. Those records indicated that a Bair Hugger device was used during her initial orthopedic surgery.

5. This case was filed on September 11, 2017 to comply with a possible statute of limitations deadline identified by counsel.
6. Plaintiff submitted a PFS on December 8, 2017. Defendants issued a deficiency notice on January 4, 2018, and Plaintiff submitted a completed amended PFS on January 30, 2018.
7. Counsel for Plaintiff keeps its clients aware of developments in this and other litigation through its monthly email newsletter. Further, staff at Kennedy Hodges, LLP recommends that clients inform their family about any pending litigation and have a family member contact the firm in the event that the client is suffering from severe health issues or has passed away.
8. On February 5, 2019, counsel received an email from Defendants stating that Ms. Ray had passed away on March 7, 2018. Counsel was not aware of Ms. Ray's passing prior to receipt of this email.
9. Counsel made immediate efforts to contact Plaintiff's next of kin after receiving this email from Defendants.
10. Phone calls were placed to Plaintiff's next of kin; however, counsel has not received a response from these efforts.
11. As these efforts to locate next of kin have not been successful to date, counsel has been unable to confirm whether next of kin would want to continue the case on behalf of Ms. Ray or otherwise determine whether the probate process has been completed.

Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing
is true and correct.

February 14, 2019

/s/Samantha Rodriguez
Samantha Rodriguez